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## Birch Horton Bittner & Cherot

*a professional corporation*

Michelle S. Nesbett



April 14, 2023

Senator Lisa Murkowski  
c/o Danielle Bailey  
Alaska Bar Association  
840 K Street, Suite 100  
Anchorage, AK 99501  
bailey@alaskabar.org

RE: United States District Court Vacancy

Dear Senator Murkowski and Alaska Bar Members:

Thank you for considering me as a candidate for the vacancy on the United States District Court for the District of Alaska. I began my legal career as a prosecutor for the State of Alaska. As an Assistant District Attorney, I was tasked with prosecuting felony crimes in Anchorage, Sand Point and Valdez. During that time, I learned the importance of screening cases, making appropriate charging decisions, negotiating plea agreements, and developing my trial skills. In 2009, I opened my own office as a solo practitioner, focusing on criminal defense, personal injury cases, and family law. In 2011, my husband joined me and we ran a successful law firm for 9 years. Over time, a large percentage of my practice transitioned to federal court as I began accepting Criminal Justice Act (CJA) appointments for criminal cases. While balancing a full-time caseload with running a law firm had its challenges, it also provided me the added experience of managing employees, budgeting overhead and costs, and maximizing efficiencies.

In 2020, I joined the local law firm of Birch Horton Bittner & Cherot, where I currently maintain a varied federal and state practice comprised of approximately 70 percent federal criminal defense and 30 percent complex civil litigation cases. The majority of my criminal cases are CJA appointments for indigent criminal defendants. These matters vary a great deal, as I have been responsible for defending individuals with charges implicating almost the entire spectrum of federal jurisdiction, including environmental crimes, large-scale drug conspiracies, bank robberies, bank and wire fraud, homicide, and gun related charges. My clients' exposure is significant, often beginning with a 10-year mandatory minimum prison sentence and ranging up to life imprisonment. The discovery in my cases is substantial, requiring me to review and process terabytes of data. The gravity of my clients' situations weighs heavily on me.

I've been an attorney in Alaska for almost two decades, having litigated approximately 60 matters in federal court. My practice has always been solely focused on litigation, and yet varies widely to include everything from personal injury cases, defamation claims, TAPS pipeline tax litigation, civil fraud, Federal Tort Claims Act cases, professional malpractice claims, *qui tam* matters and property disputes involving the Alaska Native Claims Settlement Act. I have completed over a dozen jury trials and appeared on numerous appellate matters, arguing before the Alaska Court of Appeals, the Alaska Supreme Court and the Ninth Circuit Court of Appeals. I also represent corporate clients confronted with civil investigative subpoenas or federal grand jury subpoenas, as well as 8(a) companies facing investigations into government contracting fraud allegations and potential False Claims Act violations. I appear in court at least two to three times a week, and regularly attend mediations, take depositions, and engage in substantive motion practice.

I have found a home and comfort practicing in federal court and enjoy the complexity of the cases I have the opportunity to litigate. The constant changes in federal criminal law and the sentencing guidelines make the practice challenging and continually interesting. I am passionate about representing my clients to the best of my ability and love my work, which I feel would serve me well if I were given the opportunity to serve in the judiciary.

I also stay active in the legal community and currently serve as a Lawyer Representative to the Ninth Circuit Judicial Council, on the Executive Committee of the Alaska Chapter of the Federal Bar Association, on the Mediation Panel of the Alaska Bar Association, and as a member of both the Alaska Association of Criminal Defense Attorneys as well as the Anchorage Association of Women Lawyers. I have also been on the Board of Directors for the Anchorage Neighborhood Health Center for the last 10 years, and recently concluded a four-year term as chair. I also recently volunteered as a presiding judge for the Alaska High School Mock Trial Competition, an experience that left me incredibly impressed by the performances of all of the teams.

I live in Anchorage with my husband, our two daughters, ages 9 and 11, a border collie, a bearded dragon, and far too many fish. Weekends are spent at our girls' various sporting events, camping, fishing, and flying to our remote cabin to spend time unplugged together as a family. Living in Alaska is a beautiful adventure and I remain dedicated to doing my part to improve our community and the State of Alaska.

During my career, I have had the opportunity to appear in front of more than 70 different judges. While still in law school, I had the invaluable experience of an externship with U.S. District Court Judge Martin J. Jenkins, who was a kind judge with a wonderful sense of humor and was always committed to "getting it right." These experiences have

provided me with the perspective to appreciate the qualities I believe a judge should possess: treating all parties fairly, respectfully and with compassion; ensuring all parties feel heard; enforcing applicable rules; following legal precedent; preparing thoroughly; making clear and concise decisions; and adjudicating cases in a timely manner. My experience as both a prosecutor and defense attorney provide me with a unique perspective and appreciation of what "justice" means to both the community and my clients. I understand the significance of the matters that would come before me, and I feel well prepared to make these consequential decisions.

It would be a privilege to have a role in the judiciary and I am fully confident that I would transition smoothly from the well of the courtroom to the bench. The courts play a crucial role in our government and it would be an honor to be considered for this position.

Sincerely yours,



Michelle S. Nesbett

# MICHELLE S. NESBETT

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## EDUCATION

**University of San Francisco School of Law**, San Francisco, CA

Juris Doctor, 2006, *cum laude*

- Law Review, Comments Editor
- Zief Merit Scholarship recipient

**University of California at Santa Barbara**, Santa Barbara, CA

Bachelor of Arts, Business Economics, 2001

**University of Sydney**, Sydney, Australia

January 2000 – June 2000

## LEGAL EXPERIENCE

**Birch Horton Bittner & Cherot**, Anchorage, AK

03/20–present

*Senior Counsel*

- Primarily federal civil and criminal matters representing both individuals and corporations: criminal defense, including white collar and large drug conspiracy cases; Criminal Justice Act defense for indigent federal defendants; civil fraud defense; False Claims Act and qui tam cases; responding to grand jury subpoenas and civil investigative subpoenas.
- General litigation practice in state court, including criminal defense and plaintiffs' medical malpractice claims.

**Nesbett Law Offices/Nesbett & Nesbett, PC**, Anchorage, AK

01/11–2/20

*Owner*

- General litigation practice focusing on: federal criminal defense, CJA panel work for indigent federal defendants; civil, criminal and administrative appeals in state and federal court; plaintiffs' medical malpractice claims.
- Ninth Circuit direct and collateral appeals, briefing and oral arguments.
- Multiple Alaska Supreme Court appellate matters, briefing and oral arguments.

**Dillon & Findley, PC**, Anchorage, AK

06/15–05/16

*Contract Work/Associate Counsel*

- Litigated oil and gas property taxes at the administrative, trial and appellate level, TAPS taxation litigation.
- Complex litigation and appeals, including medical and professional malpractice and land use issues involving the Alaska Native Claims Settlement Act.

**Law Office of Michelle S. Nesbett**, Anchorage, AK

10/09–01/11

*Owner, sole proprietorship*

- General practice law office, focusing on criminal defense, contract disputes, personal injury cases, and family law.

**Anchorage District Attorney's Office**, Anchorage, AK

09/06–09/09

*Assistant District Attorney*

- Felony level prosecutor.
- Tried more than 10 jury trials as first chair.
- Appellate work, briefing and oral arguments before the Alaska Court of Appeals.

## LEGAL INTERNSHIPS AND CLINICAL WORK

**United States District Court, Northern District of California,** 05/05–08/05  
*Judicial Extern for the Honorable Martin J. Jenkins*

- Researched and drafted bench memoranda for matters involving patent infringement, Social Security disability benefits, habeas petitions and federal jurisdictional issues.

**Pinheiro Guimaraes - Advogados,** Rio de Janeiro, Brazil 07/04–08/04  
*Clinical Intern, International Law Firm*

- Co-drafted Share Purchase Agreement and confidentiality agreements.
- Drafted *New CVM Regulations Allow for Exchange Traded Index Funds*, published in *Brazilian Business*, December 2004, at 52.

## LAW RELATED COMMITTEES, ACTIVITIES and MEMBERSHIPS

**Lawyer Representative to the Ninth Circuit Judicial Conference**  
03/21–present  
*Lawyer Representative, current Chair*

**Alaska Bar Association Mediation Panel,** Anchorage, AK  
07/15–present  
*Panel Member*

**Alaska Bar Association Law Examiners Committee,** Anchorage, AK  
04/12–07/16  
*Grader*

**Alaska Association of Women Lawyers,** Anchorage, AK  
01/12/15–present  
*Member*

**Alaska Association of Criminal Defense Lawyers,** Anchorage, AK  
01/14–present  
*Member*

**Federal Bar Association, Alaska Chapter,** Anchorage, AK  
07/16–present  
*Member, Executive Committee*

## COMMUNITY ACTIVITIES

**Anchorage Neighborhood Health Center,** Anchorage, AK  
01/13–present  
*Board Member, Prior Board Chair (November 2016- present)*

**Alaska Food Bank and Local Food Pantries**  
*Volunteer*

## BAR ADMISSIONS

Licensed to Practice in Alaska and California (inactive), admitted to the U.S. District Court for Alaska and the Ninth Circuit Court of Appeals.